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March 26, 2004

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: **Docket No. R-1181**

Dear Ms. Johnson:

I am writing from Woodstock Institute in Chicago to comment on the proposed changes to the regulation of the Community Reinvestment Act (CRA). Woodstock Institute is a Chicago-based nonprofit research and advocacy group that has focused on community reinvestment policy for over 30 years. We feel that the proposed changes to the CRA regularion will significantly roll back policy essential for community reinvestment and misses a critical opportunity to close loopholes and modernize the CRA regulation.

Small Bank Limits

The proposed CRA regulation would change the definition of "small bank" from any institution with less that $250 million in assets and not part of a holding company with over $1 billion in assets to include all institutions with less than $500 million in assets regardless of holding company size. This change will dramatically increase the number of banks considered "small" that, for CRA purposes, are not examined for their levels of community investment and services under the streamlined small bank CRA examination. This will disproportionately effect rural communities and small cities where smaller institutions have significant market share. In Illinois, it will reduce the number of institutions covered by the comprehensive CRA examination by 63 percent, from 198 banks to 74. However in rural areas or small cities, the number of institutions covered by comprehensive CRA will decline by nearly 73 percent.[1] In these communities, already struggling, banks will be less compelled to provide innovative investment opportunities and services. Additionally, these banks will no longer be required to report small business lending data. This will significantly reduce available data on small business lending despite the fact that it has been shown that small banks have a larger share of their lending dedicated to small businesses than larger banks.

Another concern is that by removing the holding company threshold from the definition of small bank, regulators will not only reduce die number of institutions covered by comprehensive CRA, but also have created a potential loophole for large holding companies to exploit when trying to evade CRA compliance. This change raises the possibility that large holding coinpanics will re-form their banking subsidiaries as a series of local "small banks" to avoid comprehensive CRA examinations. In the Chicago area, such an institution already exists. Harris Trust and Savings currently has 26 separately

[1] Source FDIC Institution Directory. Current as of February, 2004.

chartered institutions in the Chicago area totaling over $30 billion in assets. Of these institutions, 19 would be considered "small" under the new CRA regulation despite being part of Bancmont Financial Corp, a holding company with over $39 billion in assets in the United States. Of those Harris institutions not covered, at least three serve communities with significant low-income or minority populations.[2] Although we do not feel that Harris has structured its holding company to evade CRA compliance, we feel that holding companies could use this structure as a model to avoid significant compliance with CRA.

Woodstock feels expanding the definition of "small bank" disproportionately harms rural communities and creates a loophole for larger financial institutions to exploit in getting around full CRA compliance.

Affiliate Lending and Assessment Areas

Regulators missed a significant opportunity to modernize CRA by not requiring affiliate lending to be considered in CRA examinations. As bank holding companies increasingly use non-bank lenders to originate mortgages, it is critical that all lending affiliates be required to report lending in an institution's CRA examination. As currently structured, the CRA regulation allows banks to choose which affiliate loans in a given assessment area they want to apply toward the lending test. This allows institutions to cherry pick the best lending affiliates for each assessment area and exclude affiliates in assessment areas where those affiliates might not be adequately serving the community. As holding companies increasingly acquire non-bank lenders, often subprime lenders, it is critical that this loophole be closed and all lending affiliates be considered in CRA examinations.

Additionally, we were disappointed to see that there was no change to how assessment areas are considered. As technology and regulatory policy has advanced to allow financial institutions to conduct business through channels other than traditional branches, CRA has not advanced with it. For example, a recent Woodstock Institute publication illustrates that insurance banks conduct over 75 percent of their lending outside of their CRA assessment areas.[3] To have this level of lending not fully considered in an institution's CRA examination gives banks another loophole to exploit in evading full CRA compliance.

Predatory Lending Standard

By mirroring the OCC and setting a weak anti-predatory lending standard, regulators missed a significant opportunity to make a strong statement about predatory lending, The proposed standard allows that loans originated based on foreclosure value of collateral rather than borrower ability to repay can negatively affect a bank's CRA examination. This standard misses numerous predatory practices such as packing exorbitant fees onto mortgage loans, loan flipping, charging high prepayment penalties, and mandatory arbitration that can strip equity from homeowners and trap borrowers in

[2] Harris Bank Argo, Harris Bank Westchester, and Harris Bank Aurora all serve minority or low-income communities.

[3] Katy Jacob, October 2003. *Reinvestment Alert 24: CRA, Financial Modernization and the Policy Implications of Insurance Company Involvement In Banking for Low-Income Populations*. Woodstock Institute, Chicago. Find at www.woodstockinst.org/document/alert24.pdf

abusive loans. Regulators should apply a strong predatory lending standard to bank loans and to loans made by affiliates.

Data Disclosure

We welcome additional data disclosures on CRA examinations, but feel the data need to be more fully considered in evaluations to be truly effective. Reporting the census tract location of an institution's small business loans will allow for greater understanding of how banks serve traditionally undeserved communities. However, the benefic of this additional data is partly offset by loss of data for banks that would be considered "small" under new crireria. These lenders are significant.providers of small business loans, and the loss of this data will create a significant gap in available data. Additionally, adding data to CRA examinations to differentiate between the share of bank and affiliate loans that are originated and purchased and those which are high interest rate and HOEPA loans is also a positive step, but these loans should not be weighted equally, Originated, lower interest rate, and non-HOEPA loans should be given more weight.

Woodstock Institute welcomes the additional data disclosures, but feels that proposed changes undermine the mission of community reinvestment by creating loopholes for financial institutions to exploit to evade significant CRA compliance. We also feel regulators missed a significant opportunity to modernize CRA to reflect the reality of how financial services are provided today. We urge you to reject the proposed changes to the definition of small banks; adopt a more inclusive policy toward affiliate lending and assessment areas; strengthen the proposed predatory lending standard; and maintain the data disclosure proposal.

Sincerely,

Malcolin Bush
President

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